



Department of Energy

Washington, DC 20585

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FROM: TIMOTHY M. DIRKS
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SUBJECT: COMPETITIVE AREAS WITHIN THE DEPARTMENT OF ENERGY

The purposes of this memorandum are to:

1. transmit an analysis of the establishment of competitive areas (CA's) within which Department of Energy (DOE) employees compete for retention during a Reduction-In-Force (RIF), and
2. provide information on steps that would have to be taken to modify current CA's.

The Department is, and will continue to be, undergoing major changes in its organizational and workforce structure as a result of mission changes, budget reductions, program direction changes, and initiatives to improve efficiency and productivity. The Administration is also requiring agencies to implement competitive sourcing studies and be more responsive to customers through delayering and moving more resources to the "front-lines." These changes may result in the need for your organization to conduct RIF's at some point in the future.

This paper is being issued first because management's restructuring decisions have a direct effect on CA's. Validation or modification of CA's are scheduled to occur by the end of May 2002.

Defining Competitive Areas

As you may know, CA's, one of the most fundamental aspects of a RIF, must be identified and in place before an element can take action to effect a RIF. CA's establish the geographic and organizational boundaries within which employees compete for retention during a RIF. The CA definition is an important management decision; one that affects not only individual employees



but also the organization's ability to retain the critical skills it needs to carry out its missions. CA's are discrete units: all competing employees in a given CA are included and the employees in one discrete CA do not compete for retention with employees in another CA. For instance, if it were necessary to conduct a RIF at HQ-EM, the employees in HQ-SC would not compete with, or be impacted by, the employees in EM. The attached paper provides information on the regulatory and policy bases for CA determinations. It also includes a draft list of CA's within the Department—that is, the draft list describes CA's that might be identified as such if current policy and practice were unchanged. Further, the paper also contains a discussion of the implications of changing CA's and the steps that must be undertaken to effect changes.

Restructuring & Competitive Areas

Determination of CA's within the DOE field structure has been further complicated by the Department's unique missions and varying organizational structures. Some DOE field elements are very centralized, with administrative authority flowing from the Headquarters element, while others have been decentralized, with administrative authority residing at the local site. Other complications have arisen because of the Department's recent restructuring.

In particular, the establishment of a major new organization, the National Nuclear Security Administration (NNSA) will, under current RIF policy, result in separate CA's for NNSA and other DOE employees at field sites. Please note that the attached draft list represents the immediate effect of the statute establishing NNSA. Other drivers include: the emergence of the "Lead Program Secretarial Officer" concept, the proposed organizational realignment of the Office of Science, and the field's division into areas of responsibility. Any driver that affects the organization of the Department can affect CA's. Therefore CA configuration must be kept in mind as managers redesign their organizations to accommodate changes.

CA decisions are particularly complex at field sites that have employees reporting to different Headquarters organizations. The decisions of the Headquarters organizations, regarding reporting relationships of field employees, should be coordinated. Absent such coordination the decision of any Headquarters organization could affect field employees of other organizations, intentionally or not. The attached paper explains the complexities of determining CA's at mixed sites in more detail.

Next Steps

In the near future, a memorandum requesting that each Departmental element identify its CA's will be sent to the Heads of Departmental Elements. This request is in response to DOE Order 3300, EMPLOYMENT, which requires that the Department's CA's be published annually. Organizations will be requested to publish the list of its CA's, providing all employees with a copy; and to take appropriate steps to inform exclusive representatives of CA list changes, completing all necessary collective bargaining obligations, as appropriate.

If your staff have any questions regarding CA determination, please contact William Pearce, Office of Human Resources Policy and Planning, ME-52, on 202-586-2167. Your servicing Human Resources office can also assist you in this matter.

Attachments

cc: Human Resources Directors

ESTABLISHMENT OF COMPETITIVE AREAS FOR REDUCTION-IN-FORCE

Regulatory Background

Rules for conducting a Reduction-In-Force (RIF) for Federal employees are contained in Part 351 of Title 5, Code of Federal Regulations (CFR). Under Federal RIF regulations, a competitive area (CA) is described as the area within which employees compete for retention during a RIF; CA's are defined on the basis of **organization** and **geography**. According to 5, CFR, Section 351.402, although a CA may consist of all or part of an agency, **the minimum CA is a subdivision of the agency under separate administration within the local commuting area**. A CA can be larger than the minimum provided for in the regulation. However, **all** employees within the identified organizational unit and within the identified geographical area are included in the CA.

Organization

The Office of Personnel Management (OPM) has promulgated guidance to supplement its regulations on RIF. Please see the OPM web site (<http://www.opm.gov/rif/general/rifmenu.htm>) for its complete RIF requirements and guidance manuals. In particular, OPM defined the concept of a subdivision of an agency "under separate administration": it is an organizational subdivision that has administrative authority to **take or direct personnel actions, i.e., it has the authority to establish positions, abolish positions, and assign duties**. Accordingly, the organizational parameters for a CA do not include ministerial or processing functions. For example, one Human Resource (HR) servicing office can service several different CA's—even when the organizations that they service are under "separate administrations." Therefore, identifying CA's solely according to their human resource servicing offices is not sufficient, since human resource servicing offices do not exercise the authority to establish positions, abolish positions or assign duties, except within their own managerial hierarchy.

An example of this managerial/ministerial dichotomy is the Oak Ridge Operations Office: the Oak Ridge HR office services Y-12, which is under the separate administration of the NNSA; the Office of Scientific and Technical Information, which is under the separate administration of the Office of Science (SC); and the remainder of the Oak Ridge Operations. The administrative authority for each of these organizational subdivisions resides in a different part of the Department. Each would therefore be part of a different CA. Further, if as part of an organizational restructuring, administrative authority is moved, e.g., from the Operations Office Manager to Headquarters or to an Area Office Manager, then the CA would be affected.

Budget Considerations

As stated above, the concept of administrative authority in CA determinations relates to the management authority to take and direct personnel actions. The flow and exercise of budgetary authority, on the other hand, has no direct role in determining a CA, even though a budget reduction from one fiscal year to the next can have an undeniable and definitive role in necessitating that a RIF take place. Within the Department of Energy, appropriated funds generally flow through Headquarters elements to respective field elements. These program direction monies make it possible to sustain given staffing levels. As a practical matter in DOE, Headquarters elements do not generally direct these

monies to be used to fund particular positions in field organizations. Such decisions are normally relegated to the field manager who has the authority to take and direct personnel actions. Should a Headquarters organization cut its funding allocation to a field organization, there may be a need for a RIF within that field organization, and such a RIF could affect other positions located at the field organization that are funded by other Headquarters organizations. How affected CA's are defined will impact this kind of result.

As an example, the Office of Science (SC) provides a significant portion of the Chicago Operations Office's (CH) budget, without directing its application to specific positions. Should SC reduce its contribution to CH, the Manager of CH, who has administrative authority over the positions at the office, would have to determine how to accommodate the budget cut. This could include the need for a RIF. Because CH is currently one CA, other positions at CH, which are supported by other Headquarters organizations (the Office of Environmental Management or the Office of Safeguards and Security, for example), could be, under the current CA determinations, affected by the abolishment of positions funded by SC.

Geography

The geographic criterion also requires further explanation. The minimum CA is an organizational subdivision under separate administration **in a local commuting area**. The minimum CA may be a local commuting area but larger CA's, such as a national one, may also be established. However, DOE has established a policy on the geographical configuration of CA's throughout the DOE complex; that policy is based on local commuting areas. Please see the following section for further details on CA's.

DOE Policy on Competitive Areas

The Department of Energy's (DOE) policy on CA's is contained in DOE Order 3300, EMPLOYMENT, Chapter IV, 6. The DOE policy on CA's follows:

- (1) Each Headquarters first-tier organization shall be a separate CA. Such areas shall include all employees of the organization within the Washington, D.C., commuting area.
- (2) Each field element with delegated personnel authority and which is operationally and functionally independent of other Departmental activities in the commuting area shall be in a separate CA. If such an office has activities in more than one commuting area, each commuting area shall be a separate CA.
- (3) Each field element without delegated personnel authority or which is not independent of other Departmental activities in the commuting area shall be considered a field activity of the appropriate Headquarters office, and shall be a separate CA.

In accordance with the policy, Western Area Power Administration (WAPA), for example, has a number of CA's within its geographically dispersed organization; the CA's are based on the requirements in #2 above. If WAPA wanted to have a nation-wide CA, such a configuration would not be contrary to Federal regulation, but it would be contrary to DOE policy; WAPA

would have to request an exception to the current policy. Using the example from Oak Ridge, the part of NNSA that is at Oak Ridge would be considered a field activity of the Headquarters NNSA office and would be a CA separate from both Headquarters and Oak Ridge (see #3).

Principles for Establishing Competitive Areas

A draft list of CA's within the Department is attached. The list was compiled based on application of current Federal regulation, Departmental policy and statutory Departmental configuration, the latter including the establishment of NNSA. The list is not policy *per se*, but rather a reflection of its application. If heads of Departmental elements wish to either validate or modify the configurations represented on that list, they should consider the following in addition to the Federal regulatory requirements and Departmental policy.

Accomplishing Work – the CA need not stand alone; ministerial work can be performed for the employees within the CA by organizations outside the CA. However, care should be taken that the work is ministerial only and that management responsibilities for establishing positions, abolishing positions and assigning duties occur either within the CA or at the organizational level clearly identified by management—at Headquarters, for example, or in a CA within another commuting area as defined by delegation or mission/function statements.

Understanding the Process - employees and other interested parties must be able to understand how CA's are determined. CA's need not all be the same size, nor do CA's have to be one-per-commuting area, but they should be understandable and have a rational basis. Please note that Departmental policy states that requests for changes in approved CA's are to be submitted to the Director of Human Resources Management or, for NNSA components, the Director of Personnel, NNSA, at least 120 days in advance of any proposed RIF. Changes to a CA just prior to a RIF may be perceived by some employees as suspect.

Costs - the “efficiency” of a small CA in the RIF process may be offset by the costs associated with acquiring the critical ministerial support needed to make the CA a functional organization. On the other hand, a large CA, stretching over a number of commuting areas (with an approved exception to Departmental policy) may result in excessive relocation costs in the event of a RIF.

Models of Different Types of Competitive Areas

Several models of CA design, based on administrative authority and geographic area, are provided here as examples. The models are not all based on current Department structure but, rather, are based on concerns that may arise as a result of the consideration of organizational restructuring. One model, if implemented, would require an exception to Departmental policy.

Again, if as part of an organizational restructuring, administrative authority is moved, e.g., from the Operations Office Manager to Headquarters or to an Area Office Manager, then the CA would be affected.

A. See DOE Order 3300; 6.a.(1)

ADMINISTRATIVE AUTHORITY	GEOGRAPHIC AREA	RAMIFICATIONS
HQ first-tier heads	D.C. commuting area	A HQ's first tier employees would not compete with field element employees reporting to same HQ first-tier, or with employees in other HQ first tiers having separate administrative authority. Permissible under current authority.

B. See DOE Order 3300; 6.a.(2)

ADMINISTRATIVE AUTHORITY	GEOGRAPHIC AREA	RAMIFICATIONS
Field element Manager (has authority over all DOE employees in that element)	Field element's commuting areas	All employees in the Field element, e.g., funded by EM, SC, etc., would compete with all other employees from that Field element in the local commuting area; no HQ first tier employees or other Field element's employees would compete with employees in that Field element. Permissible under current authority.

c. See DOE Order 3300; 6.a.(3)

ADMINISTRATIVE AUTHORITY	GEOGRAPHIC AREA	RAMIFICATIONS
HQ first tier (Field elements report directly to HQ first tier)	Field element commuting areas	Employees of the Field element would be in their own separate CA's, i.e., they would not compete with other DOE employees in the Field element's commuting area, or with HQ employees in the HQ first tier to whom their head reports. Permissible under current authority.

D. Not authorized at present.

ADMINISTRATIVE AUTHORITY	GEOGRAPHIC AREA	RAMIFICATIONS
Central Administrative Authority over HQ first tier(s) and Field office employees	National	Employees would compete nationwide--regardless of commuting area--with all other employees of the nationwide organization, e.g., NNSA. Employees from this organization working at Field elements would not compete with DOE employees from those Field elements, and vice-versa. This model would require approval as a variance from DOE Order 3300.

CA Modification - DOE Elements may conclude that the attached draft list no longer reflects their individual organization's current or pending administrative authority configuration. Comments are provided on the attached draft list to aid in final decisions concerning CA and to explain the current basis for determination. Organizations concluding that CA modification is appropriate should consider the following:

- (1) documentation must be developed that demonstrates that the organization is configured in a manner that supports the (current or pending) administrative authority (e.g., if you believe that the CA's for which you are responsible should reflect budget flow and allocation, you may take steps to revise delegations of authority, functional statements, etc., to identify and/or clarify your organization's administrative authority). Please note that there must be a direct link, pursuant to regulation, between administrative authority and CA; further, any modified CA should be readily understood by affected employees, their representatives, and, if necessary, by parties that may review employee RIF appeals;
- (2) approval of that documentation must be obtained according to Departmental directive and/or delegation requirements (e.g., formalizing reorganizations, or having mission/function statements approved);
- (3) the new CA configuration must be approved in accordance with DOE Order 3300 (i.e., according to the NNSA or non-NNSA approval route).

If you have any questions about this paper, please consult with your servicing Human Resources office. The paper has been prepared by a work group headed by representatives of the Office of Human Resources Policy and Planning, (202) 586-8503.

bcc: ME-52 (a); ME-50 (1) ME:Bpearce:4/26/02:6-2167:a:CompAreaMemo-Apr02a.doc